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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/702,431	11/07/2003	Takuya Matsuno	032032	9395

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WASHINGTON, DC 20036

EXAMINER
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DAFTUAR, SAKET K

ART UNIT	PAPER NUMBER
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2151

MAIL DATE	DELIVERY MODE
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11/13/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/702,431

Applicant(s)

MATSUNO, TAKUYA

Examiner

Saket K. Daftuar

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 29 August 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

***Response to Amendment***

1. This office action is responsive to the amendment filed on August 29<sup>th</sup>, 2007.

Claims 1-7 are presented for the further examination.

***Response to Arguments***

2. Applicant's arguments with respect to claims 1-7 have been considered but are moot in view of the new ground(s) of rejection.

***Claim Rejections - 35 USC § 101***

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 1-7 are rejected less than 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The claims lack the necessary physical articles or objects to constitute a machine or a manufacture within the meaning of 35 USC 101. They are clearly not a series of steps or acts to be a process nor are they a combination of chemical compounds to be a composition of matter. As such, they fail to fall within a statutory category. They are, at best, functional descriptive material *per se*.

Descriptive material can be characterized as either "functional descriptive material" or "nonfunctional descriptive material." Both types of "descriptive material" are nonstatutory when claimed as descriptive material *per se*, 33 F.3d

at 1360, 31 USPQ2d at 1759. When functional descriptive material is recorded on some computer-readable medium, it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized. Compare *In re Lowry*, 32 F.3d 1579, 1583-84, 32 USPQ2d 1031, 1035 (Fed. Cir. 1994)

Merely claiming nonfunctional descriptive material, i.e., abstract ideas, stored on a computer-readable medium, in a computer, or on an electromagnetic carrier signal, does not make it statutory. See *Diehr*, 450 U.S. at 185-86, 209 USPQ at 8 (noting that the claims for an algorithm in *Benson* were unpatentable as abstract ideas because “[t]he sole practical application of the algorithm was in connection with the programming of a general purpose computer.”).

Claims 1-7 presented as a machine claims that support a plant operation by transmitting and receiving data between the plant operation supporting device and a process controller through a communication bus. It appears that all elements or features of the claimed subject matter of the plant operation device could be implemented in software alone. Pages 1-2 of specification of current application also disclose the automation package able to execute the operation procedure as support software for improving operation efficiency. Therefore, claims are directed towards a non-statutory subject matter since they are not tangible.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Sonobe et al. U.S. Patent Number 5,377,309 (hereinafter Sonobe).

As per claim 1, Sonobe discloses display (column 13, lines 12-13; displayed on monitor) means for displaying (column 21, lines 6-19) a working operation [software operation, see Abstract, column 1, lines 25-32] procedure described in a logic chart format (see column 15, line 63- column 16, line 4) on a screen (column 13, lines 12-13) of the display means; and executing means for executing (program execution, column 1, lines 32-35) the support of the plant operation [software operation, see Abstract, column 1, lines 25-32] in accordance with the working operation [procedure to process and store logic chart] procedure of the logic chart format displayed on the screen (column 15, line 63 - column 16, line 31; column 13, lines 12-13; displayed on monitor).

As per claim 2, Sonobe discloses wherein said display means displays the screen described in one or both of the logic chart format (column 13, lines 12-13) and a flow chart format (see Figures 3 and 8-10 for flow chart disclosure format); and said executing means executes the support of the plant operation [software operation, see Abstract, column 1, lines 25-32] in accordance with the working operation procedure [procedure to process and store logic chart] of one or both

of the logic chart format and the flow chart format displayed on the screen(column 15, line 63 - column 16 ,line 31; column 13, lines 12-13; displayed on monitor).

As per claim 3, Sonobe discloses wherein said personal computers (column 1, lines 44-45; column 2, lines 45-47) transmits and receives process data (column 2, lines 22- 30) between the personal computer and said process controller through an interface server (object server, name server column 26, line 15).

As per claim 4, Sonobe discloses wherein said personal computer is connected to said interface server through a general-purpose network (column 17, lines 22-23).

As per claim 5, Sonobe discloses wherein said plural personal computers [plurality of user] are connected to said general-purpose network (column 17, lines 22-23).

As per claim 6, Sonobe discloses wherein said interface server transmits and receives (column 2, lines 22- 30) said process data between the interface server and a field control station (object server, name server; column 26, line 15) connected through the control bus of a distributed process controller (see Figure 22).

As per claim 7, Sonobe discloses wherein said interface server(object server, name server column 26, line 15) is constructed within a human interface station (column 1, lines 44-45; column 2, lines 45-47; personal computers)

connected through the control bus of said distributed process controller (see Figure 22).

### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See accompanying PTO 892.

a. Server-side control objects for processing client-side user interface elements by Burd et al. U.S. Patent Number 6,961,750 B1.

b. Test system for testing dynamic information returned by a web server by Taft et al. U.S Patent Number 6,665,634 B2.

c. Communication link for client-server having agent which sends plurality of requests independent of client and receives information from the server independent of the server by Verkler et al. U.S. Patent Number 5,850,517.

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

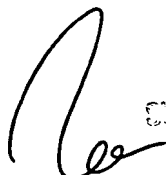
**Contact Information**

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Saket K. Daftuar whose telephone number is 571-272-8363. The examiner can normally be reached on 8:30am-5:00pm M-W.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on 571-272-3964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SKD

  
John Follansbee  
Acting SPE 2151